

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DR MANAGEMENT, LLC, *et al.*,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No. 05-1010 MMC

REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE  
(LETTER OF REQUEST)

TO:

Direccao-Geral de Justica  
Ministerio da Justica  
Av. 5 de Outubro, 125  
1050 Lisbon  
Portugal

REQUESTING JUDICIAL AUTHORITY:

United States Magistrate Judge Maria-Elena James  
United States District Court  
Northern District of California  
San Francisco Division  
450 Golden Gate Avenue  
San Francisco, CA 94102  
Tel: (415) 522-4708

CENTRAL AUTHORITY OF REQUESTING STATE:

United States District Court  
Northern District of California  
San Francisco Division  
450 Golden Gate Avenue  
San Francisco, CA 94102



1 **PERSON TO WHOM THE EXECUTED REQUEST IS TO BE RETURNED:**

2 Robert D. Infelise, Esq. (Counsel for Plaintiffs)  
3 Cox, Castle & Nicholson LLP  
4 555 California Street, 10th Floor  
5 San Francisco, California 94104-1513  
6 To be submitted to Direccao Geral de Justica, Ministerio da Justica, in Portugal.

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11 The undersigned, Magistrate Judge Maria-Elena James of the United States District Court,  
12 Northern District of California, respectfully requests you to cause the testimony of a certain person  
13 within your jurisdiction to be taken for use as evidence at trial, as more fully explained below,  
14 pursuant to the provisions of the Hague Convention on the Taking of Evidence in Civil Matters ("the  
15 Hague Convention").

16 In conformity with article 3 of the Convention, the undersigned applicant has the honor to  
17 submit the following:

18 **1. Names and Addresses of the Parties and Their Representatives:**

19 Plaintiffs Jennifer Lin, Frederick Lin and Kevin Lin are residents of Taiwan. Plaintiffs DR  
20 Management, LLC ("DRM"), DR Acquisition I, LLC ("DRA") and DR Holdings, LLC ("DRH") are  
21 limited liability companies organized under the laws of the State of Delaware (referred to collectively  
22 as "Plaintiffs"). Plaintiffs are represented by Robert D. Infelise, Peter Morrisette and Ali P. Hamidi  
23 from the law firm of Cox, Castle & Nicholson, LLP, located at 555 California Street, 10<sup>th</sup> floor, San  
24 Francisco, CA 94104.

25 Defendant is the United States of America, the Secretary of the Department of Treasury,  
26 United States Department of the Treasury; Mark W. Everson, in his capacity as the Commissioner of  
27 the Internal Revenue Service; and the United States Revenue Service. Defendants are represented by  
28 Robert J. Higgins and Bart D. Jeffress of the United States Department of Justice, at 555 4<sup>th</sup> Street,  
N.W., Room 8816, Washington, D.C. 20001.

29 **2. Nature and Summary of Proceeding and Summary of Facts:**

30 This proceeding arises out of a claim by Jennifer Lin, Frederick Lin and Kevin Lin (hereinafter  
31 "Lins") contesting adjustments proposed by the United States Internal Revenue Service ("IRS") to the  
32 federal income partnership tax returns of entities in which the Lins hold partnership, i.e., DRM and

1 DRA, for the tax year 2000. The adjustments sought by the IRS relate to the sale of land located in  
 2 Pleasanton, California, previously bought by the Lins in the 1980s and later sold by their entity DRA  
 3 in 2000 to a party that is not involved or named in this lawsuit.

4 The underlying facts relating to this proceeding are as follows: The Lins bought certain  
 5 property known as Dublin Ranch in Pleasanton, California in the 1980s. On the advise of their  
 6 attorneys Mr. William Goddard, and the principal accounting firm which they engaged, KPMG LLP,  
 7 they transferred the Dublin Ranch land to DRM and DRA. In year 2000, they sold portions of the  
 8 Dublin Ranch land to a third party. Upon the IRS' audit of the year 2000 tax returns of DRM and  
 9 DRA, the IRS requested that adjustments be made to those returns, claiming that the net profit  
 10 resulting from the sale of the land be characterized as regular income, not long-term capital gains and  
 11 questioning the business purposes of the transactions. The Lins have disputed the accuracy and  
 12 validity of the IRS's position. One of the central issues in this proceeding, contested by the  
 13 Defendant, is the legitimacy of the transactions formulated by KPMG LLP and Mr. Goddard.  
 14 Plaintiffs argue that the transaction were designed for legitimate asset protection and estate planning  
 15 goals.

16 Mr. William Goddard, who now resides in Portugal, is a critical third-party witness in this  
 17 proceeding. Mr. Goddard has volunteered to provide oral testimony prior to trial on the issue of  
 18 legitimacy of the transactions which he and KPMG LLP formulated for the Lins. Mr. Goddard is not  
 19 a party to this litigation, and his personal business affairs are not at issue in this litigation. Thus, this  
 20 is not a tax dispute involving Mr. Goddard. Rather, Mr. Goddard will be questioned only as the  
 21 matters relevant to the business transactions of concern to the Plaintiffs.

22 **3. Evidence to Be Obtained or Other Judicial Act to Be Performed:**

23 This letter requests that the oral testimony of William Goddard be taken for use as evidence at  
 24 trial. Trial in this matter is scheduled to begin on March 3, 2008. The parties have requested and this  
 25 court has granted them permission to conduct the oral examination of Mr. Goddard in Portugal. That  
 26 examination, however, must be conducted before November 16, 2007.

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1       4. **Identity and Address of Any Person to Be Examined:**

2             William A. Goddard, IV, Esq.  
3              Avenida da Liberdade, 110  
4              1269-046 Lisboa  
5              Portugal

6              Mr. Goddard has agreed to appear at the location described below for his deposition, or at any  
7              other location which the Direccao Geral de Justica, Ministerio da Justica would deem appropriate:

8              ABBC, Sociedade de Advogados RL  
9              Largo S. Carlos, Nº 1 a 7  
10             1200-410 Lisboa - Portugal

11             Mr. Goddard is represented by counsel Bradley Patterson, of Goddard LLP in Irvine,  
12             California. Mr. Patterson has agreed to travel to Portugal and will be present at the oral examination  
13             of Mr. Goddard.

14       5. **Subject Matter of Examination:**

15             The examination of Mr. Goddard will be on the subject of the structure and legitimacy of the  
16             transactions formulated by him with respect to the Lins and their entities DRM, DRA and DRH,  
17             relating to the sale of the Dublin Ranch property in year 2000.

18             The examination will consist of the questions on the following ten topics:

- 19             1) Goddard's educational and employment background;
- 20             2) Why Goddard is no longer residing in the U.S.;
- 21             3) The relationship between Goddard and his law firm, on one hand, and KPMG, on the other;
- 22             4) The circumstances under which Goddard and his firm came to represent the Lins;
- 23             5) What Goddard and his colleagues did for the Lins;
- 24             6) Advice Goddard and his colleagues provided the Lins in connection with KPMG opinion;
- 25             7) Advice given by KPMG to the Lins in connection with the KPMG opinion;
- 26             8) Whether there is a business purpose to the transaction;
- 27             9) Whether there is an estate planning purpose to the transaction; and
- 28             10) Whether the transaction is legitimate.

1           The representatives of the United States will also have an opportunity to examine the witness  
 2 as to the matters listed above and as to other related matters within their discretion.

3       **6. Evidence to Be Given on Oath or Affirmation:**

4           Mr. Goddard must be sworn before evidence is taken. If local law does not permit the use of  
 5 oath or affirmation, then the evidence should be taken in the normal manner permitted by law.

6       **7. Procedures for Examination:**

7           It is requested that the examination be conducted in English, and the testimony be transcribed  
 8 by computer-aided transcription by a court reporter, as outlined in Section 8 below, in English.

9       **8. Request for participation of a court reporter in the oral examination:**

10          It is requested that a registered and professional court reporter for the State of California, be  
 11 permitted to be present, administer the necessary oath under United States' law and transcribe the  
 12 proceedings via shorthand and to later reduce it to typewritten form.

13       **9. Privilege to Refuse to Give Evidence:**

14          Mr. Goddard has a privilege to refuse to give evidence under the attorney client privilege  
 15 codified under US federal and California state law which protects confidential communications  
 16 between a client and an attorney from disclosure.

17          Mr. Goddard also has the privilege against self-incrimination under the Fifth Amendment to  
 18 the United States Constitution to refuse to provide any information that might tend to incriminate him  
 19 in federal or state proceedings in the United States.

20          Mr. Goddard has agreed to voluntarily provide information on the subject matter and the  
 21 specific questions outlined in Section 5 above.

22       **10. Reimbursement of Costs:**

23          All fees and costs incurred in connection with the oral examination of Mr. Goddard will be  
 24 borne by Plaintiffs.

25          The United States District Court for the Northern District of California extends its assurances  
 26 of highest regard and consideration to Direccao Geral de Justica, Ministerio da Justica.

27          Dated: October 22, 2007

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Magistrate Judge Maria-Elena James

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